1948. File No. O Indus Statistics/48

Legal DEPARTMENT

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Subject:— Opinions under the Industrial Statistics Act, 1942

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O. Indus Statistics/48

508-A

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Office of the D.I.S.

Prosecution for not furnishing returns.

Industrial Statistics Act. 1942.

Sections- 5(1) and 8(a)

Sub-section (1) of section 5 of the Industrial Statistics Act, 1942, provides that the statistics authority may serve or cause to be served on any person a notice requiring him to furnish at such intervals and in such form and with such particulars as may be prescribed, such information or return relating to any matter in respect of which statistics are to be collected and to such authority or person and in such manner and at such times as may be prescribed. Section 4 provides that the Provincial Government may appoint an officer to be the statistics authority for the purposes of the collection of any statistics under this Act. Section 8(a) provides that if any person required to furnish any information or any return wilfully refuses or without lawful excuse neglects to furnish such information or return as required under the Act he shall for each such offence be punishable with fine which may extend to five hundred rupees etc. The notice under section 5(1) was served by the Director of Industries as Statistics authority from Bombay and according to the notice the returns are also required to be submitted to him at Bombay. The offence under section 8(a) for the failure to furnish returns before the prescribed date can therefore be tried by the Court within whose jurisdiction the Office of the Statistics authority is situate, namely, Bombay City even though the factory itself may be located outside its jurisdiction (*cf.* Debendranath Das v. Registrar of Joint Stock Coy.Bengal, 45 Cal.486). For such a prosecution sanction of the Statistics authority under section 8 would be necessary but it is unnecessary to authorise the Statistics Inspectors under this section for launching the prosecution.

As regards the second point it may be stated that under rule 26(a) of the Law Officers Rules it is for the Public Prosecutor for Bombay to originate or conduct prosecutions as may be directed to originate or conduct by Government or by any Head of the Department etc. The Director of Industries being the Head of the Department he can direct the Public Prosecutor to conduct the prosecutions in this case. (Please see Appendix II in D.C.S. Rules, Vol.II p.39).

Sd/- P.M.LAD,

Remembrancer of Legal Affairs.

U.O. to S & I.D.,No. 698-Confl. dated the 2nd December 1948.

E/27.5.

Confidential
Urgent.

No. 3934/2301-C
Education and Industries Department,
Bombay Castle, 3rd January 1949.

To

The Director of Industries,
Bombay.

Subject:- Industrial Statistics Act, 1942.

Prosecution of defaulters under -

Reference your letter No.C.I. & I.S.-32/3937-Confidential dated 25th October 1948 on the subject mentioned above.

2. Government has decided that all those factories which have not submitted their returns for the year 1946 under the Industrial Statistics Act,1942, should be prosecuted forthwith. As regards those factories which have not submitted their returns for the year 1947, you are requested to send a further reminder to them and approach Government after three months for orders.

3. A copy of the Remembrancer of Legal Affairs Memorandum No.658 Confidential dated 2nd December 1948 is forwarded herewith for information and guidance.

Sd/-

Under Secretary to the Government of Bombay,
Education and Industries Department.

Confidential.

Copy forwarded to :

the Remembrancer of Legal Affairs,

the Home Department (with a copy of the Remembrancer of Legal Affairs memorandum dated 2nd December 1948.),

for information.

SMR/17.5.